



CALIFORNIA STATE PERSONNEL BOARD  
801 Capitol Mall • Sacramento, California 95814

## **NOTICE OF EFFECTIVE DATE OF AMENDED REGULATION**

### **California Code of Regulations Title 2, Administration Division 1, Administrative Personnel**

**DATE:** July 30, 2001

**TO:** ALL STATE AGENCIES, EMPLOYEE ORGANIZATIONS AND  
MEMBERS OF THE GOVERNOR'S CABINET

**SUBJECT:** AMENDMENT OF SPB RULE 52.3 – RIGHT TO RESPOND TO  
PROPOSED ACTION

This memorandum is to advise you that the proposed revision to the California Code of Regulations (CCR), as substantively described in the State Personnel Board's (SPB) Notice of Proposed Amendment of Regulation dated March 16, 2001, became effective on June 19, 2001. A copy of the final regulation is attached. This final regulation will be published in the CCR, Title 2, Section 52.3.

Section 52.3 codifies the due process requirements set forth in Skelly v. State Personnel Board (1975) 15 Cal.3d 194, which appointing powers must follow before taking adverse or other employment actions against their employees. The amended regulation modifies the earlier regulation by:

1. Requiring that an appointing power must comply with the Section's 5-day notice requirements when it non-punitively terminates, demotes, or transfers an employee pursuant to Government Code § 19585;
2. Requiring that an appointing power must comply with the Section's 15-day notice requirements when it applies for disability retirement on behalf of an employee and places that employee on involuntary leave pursuant to Government Code §19253.5(i)(1); and
3. Clarifying that when an appointing power medically terminates, demotes, or transfers an employee pursuant to Government Code §19253.5, it must provide the employee with notice at least 15 calendar days prior to the effective date of the action.

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**CONTACT PERSON:**

Please direct any inquiries regarding the amendment to Section 52.3 to Karen Brandt at the State Personnel Board, P.O. Box 944201, Sacramento, CA 94244-2010 or call (916) 653-1403, (TDD 916-653-1498).

Mike Willihnganz, Chief  
Policy Division

Attachment: Text of Final Regulation

### **§ 52.3. Right to Respond to Proposed Action.**

(a) At least five working days before the effective date of a proposed adverse action, rejection during the probationary period, or non-punitive termination, demotion, or transfer under Government Code section 19585, the appointing power, as defined in Government Code Section 18524, or an authorized representative of the appointing power shall give the employee written notice of the proposed action. At least 15 calendar days before the effective date of a medical termination, demotion, or transfer under Government Code section 19253.5 or an application for disability retirement filed pursuant to Government Code section 19253.5(i)(1), the appointing power or an authorized representative of the appointing power shall give the employee written notice of the proposed action. The notice shall include:

- (1) the reasons for such action,
- (2) a copy of the charges for adverse action,
- (3) a copy of all materials upon which the action is based,
- (4) notice of the employee's right to be represented in proceedings under this section, and
- (5) notice of the employee's right to respond to the person specified in subsection (b).

(b) The person whom the employee is to respond to in subsection (a)(5) shall be above the organizational level of the employee's supervisor who initiated the action unless that person is the employee's appointing power in which case the appointing power may respond to the employee or designate another person to respond.

(c) The procedure specified in this section shall apply only to the final notice of proposed action.

NOTE: Authority cited: Sections 18701 and 19574, Government Code.  
Reference: Sections 19173, 19253.5, 19574, 19574.1 and 19585, Government Code;  
and *Skelly v. SPB* (1975) 15 Cal.3d 194.